

[Senate Bill 767](#) (De Leon)

Date: 06/01/15

Program: Transactions and Use

Sponsor: Los Angeles County Metropolitan Transportation Authority

Public Utilities Code Section 130350.7

Effective: January 1, 2016

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**Summary:** Authorizes the Los Angeles County Metropolitan Transportation Authority (MTA) to impose an additional 0.5% transactions and use tax (district tax) for funding transportation-related projects and programs. The tax would be imposed for an unspecified period to be determined by the MTA, and may exceed the existing 2% rate limitation.

**Summary of Amendments:** Since the previous analysis, the bill was amended to, among other things, require the MTA to post the expenditure plan on its website at least 30 days before submitting the ordinance to the voters.

**Purpose:** To provide additional funding for specific transportation projects.

**Fiscal Impact Summary:** Approximately \$800 million annually.

**Existing Law:** The **Transactions and Use Tax Law**<sup>1</sup> and the **Additional Local Taxes Law**<sup>2</sup> authorize cities and counties (and special purpose entities) to impose district taxes under specified conditions. Counties may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the county. Cities also may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the city. The combined district tax rate imposed within any local jurisdiction cannot exceed 2%<sup>3</sup> (with the exception of the counties of Alameda, Contra Costa, and Los Angeles<sup>4</sup>).

By law, cities and counties (and special purpose entities) contract with the BOE to administer the ordinances imposing the district taxes.

Various statutes under the Public Utilities Code (PUC) provide for the establishment of a local transportation authority, and authorize that authority to impose a district tax, subject to the applicable voter approval requirement. District taxes imposed under the PUC must conform to the administrative provisions contained in the Transactions and Use Tax Law. The law also requires local transportation authorities to contract with the BOE to perform all functions related to the administration of the ordinance.

PUC Section 130350 authorizes the MTA<sup>5</sup> to impose a district tax for public transit purposes within the incorporated and unincorporated territory of the County of Los Angeles, provided that two-thirds of the electors voting on the measure vote to authorize its enactment. The district tax must conform to Part 1.6 of the Transactions and Use Tax Law, including the requirement that the combined tax does not exceed the 2% rate limitation. Currently, MTA imposes two separate 0.5% district taxes under Section 130350. As previously stated, these district taxes are NOT exempt from the 2% combined rate limitation in current law.

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<sup>1</sup> Part 1.6 of Division 2 of the RTC, commencing with Section 7251.

<sup>2</sup> Part 1.7 of Division 2 of the RTC, commencing with Section 7280.

<sup>3</sup> RTC Section 7251.1.

<sup>4</sup> Exceptions authorized through AB 210 (Ch. 194, Stats. 2013, Wieckowski) for Alameda County and Contra Costa County and SB 314 (Ch. 785, Stats. 2003, Murray) for the Los Angeles Metropolitan Transportation Authority.

<sup>5</sup> The Los Angeles County Metropolitan Transportation Authority was created in February 1993 (AB 152 (Ch. 60, Stats. 1992) added PUC Section 130050.2 to create the MTA) as a result of the merger between the Los Angeles County Transportation Commission and the Southern California Rapid Transit. The MTA became the regional transportation planning agency for the County of Los Angeles.

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In addition, PUC Section 130350.5<sup>6</sup> authorizes the MTA to impose a 0.5% district tax for the funding of specified transportation-related capital projects and programs, and excludes that 0.5% tax from the 2% rate limitation. In November 2008, Los Angeles County voters approved the additional 0.5%, which became effective July 1, 2009.

**Proposed Law:** This bill adds PUC Section 130350.7 to authorize the MTA to impose an additional 0.5% district tax applicable in the incorporated and unincorporated areas of Los Angeles County for a period determined by the MTA. The ordinance imposing the tax must include all of the following:

- 1) Expenditure plan that lists the transportation projects and programs to be funded from the net tax revenues.
- 2) Provisions specifying that the district tax conforms to the Transactions and Use Tax Law, except for the combined rate limitation in RTC Section 7251.1.
- 3) Provision limiting the MTA's costs to administer the ordinance and the net tax revenues to 1.5% of the total tax revenues.
- 4) Requirement that "net tax revenues" is defined as the total tax revenues less any refunds, BOE's administrative costs, and the MTA's administrative costs.
- 5) A requirement that the net tax revenues would be used to fund transportation projects and programs that are identified in the expenditure plan.

The ordinance would become operative pursuant to PUC Section 130352, which provides that any district tax ordinance adopted shall become operative on the first day of the first calendar quarter commencing not less than 180 days after adoption.

The bill authorizes the MTA to incur bonded indebtedness payable from the net revenues of the tax pursuant to the bond issuance provisions of Chapter 4 of Division 12 of the PUC.

If enacted, the bill is effective January 1, 2016.

**Background:** Currently, Los Angeles County has fourteen district taxes being levied within its borders—three transportation county-wide taxes and eleven city-wide taxes. Only the MTA tax (bolded), operative July 1, 2009 through June 30, 2039, is NOT subject to the 2% statutory rate limitation:

| District Name and Tax Area                                                       | Rate         | Effective Date  | Expiration Date |
|----------------------------------------------------------------------------------|--------------|-----------------|-----------------|
| Los Angeles County Transportation Commission (county-wide)                       | 0.50%        | 04-01-91        | None            |
| Los Angeles County Transportation Commission (county-wide)                       | 0.50%        | 07-01-82        | None            |
| <b>Los Angeles County Metro Transportation Authority (county-wide)</b>           | <b>0.50%</b> | <b>07-01-09</b> | <b>06-30-39</b> |
| City of Avalon Municipal Hospital and Clinic Tax (city-wide)                     | 0.50%        | 10-01-00        | None            |
| City of Commerce Transactions and Use Tax (city-wide)                            | 0.50%        | 04-01-13        | None            |
| City of Culver City Essential City Services Transactions and Use Tax (city-wide) | 0.50%        | 04-01-13        | 03-31-23        |
| City of El Monte Transactions and Use Tax (city-wide)                            | 0.50%        | 04-01-09        | 03-31-19        |
| City of Inglewood Vital City Services Transactions and Use Tax (city-wide)       | 0.50%        | 04-01-07        | None            |

<sup>6</sup> SB 314 (Ch. 785, Stats. 2003, Murray)

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| District Name and Tax Area                                                                 | Rate  | Effective Date | Expiration Date |
|--------------------------------------------------------------------------------------------|-------|----------------|-----------------|
| City of La Mirada Transactions and Use Tax (city-wide)                                     | 1.00% | 04-01-13       | 03-31-18        |
| City of Pico Rivera Transactions and Use Tax (city-wide)                                   | 1.00% | 04-01-09       | None            |
| City of San Fernando Temporary Transactions and Use Tax (city-wide)                        | 0.50% | 10-01-13       | 09-30-20        |
| City of Santa Monica Transactions and Use Tax (city-wide)                                  | 0.50% | 04-01-11       | None            |
| City of South El Monte Vital City Services Protection Transactions and Use Tax (city-wide) | 0.50% | 04-01-11       | None            |
| City of South Gate Transactions and Use Tax (city-wide)                                    | 1.00% | 10-01-08       | None            |

As previously stated, cities and counties may impose district taxes as long as the combined rate does not exceed 2% within the county. Los Angeles County imposes two county-wide district taxes each at a rate of 0.5%, for a total county-wide tax rate of 1% (the MTA tax is exempt from the 2% cap). The city district taxes count cannot exceed the 2% limit. Because the cities of La Mirada, Pico Rivera, and South Gate each impose a tax of 1%, Los Angeles County has reached the 2% limit.

**Legislative History:** Over the years, four bills have been approved by the Legislature granting specific authority to local governments to impose a district tax that exceeds the general 2% rate limitation:

- SB 314 (Ch. 685, Stats. 2003, Murray) authorized the MTA to impose a 0.5% district tax for the funding of specified transportation-related capital projects and programs. However, MTA never placed an ordinance before the voters to levy this authorized tax within the 6.5 year time frame.<sup>7</sup>
- AB 1086 (Ch. 327, Stats. 2011, Wieckowski) authorized the County of Alameda to impose a district tax for the support of countywide transportation programs at a rate of up to 0.5%. AB 1086 required that the ordinance proposing the tax be submitted to the electorate on the November 6, 2012 General Election ballot and be approved by the voters. Alameda County voters declined to approve the proposed district tax (Measure B1) on the November 6, 2012 ballot; the measure fell 0.14% short of the 66.6% super-majority needed to pass.
- AB 210 (Ch. 194, Stats. 2013, Wieckowski) extends the authority of Alameda County and authorizes Contra Costa County to impose a countywide transportation program district tax at a rate of up to 0.5%.
- AB 1324 (Chapter 795, Stats. 2014, Skinner) authorizes the City of El Cerrito to impose a general-purpose district tax at a rate of up to 0.5%.

### Commentary:

1. **The June 1, 2015 amendments** (1) require the MTA to post the expenditure plan on its website at least 30 days before submitting the measure to the voters, (2) require the expenditure plan to include the most recent costs estimates and the expected completion dates for each project, (3) require the MTA to develop a transparent process to determine the most recent cost estimates, and (4) add coauthors.
2. **If enacted, the MTA would have two tax authorizations exempt from the 2% rate limitation.** As previously stated, Los Angeles County cannot enact a new district tax because the cities of La Miranda's, Pico Riveria's, and South Gate's 1% tax, combined with the county's two district taxes already reaches the 2% limit.

<sup>7</sup> AB 2321 (Chapter 302, Statutes 2008, Feuer) amended PUC Section 130350.5 to authorize, among other things, the 0.5% tax for a period not to exceed 30 years.

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- 3. Suggested technical amendment.** The June 1, 2015 amendments re-lettered former subdivision (f) as subdivision (h). Consequently, the reference to “subdivision (f)” in subdivision (b)(2) should be “subdivision (h).” Accordingly, BOE staff recommends the following amendment:

On page 2, line 26, replace “subdivision (f)” with “subdivision (h).”

- 4. Related Legislation.** [AB 338](#) (Hernandez), which is nearly identical to SB 767, also provides (1) the 0.5% tax must be imposed for a period not to exceed 30 years, and (2) a percentage of the net revenues to be allocated for bus and rail operations. [AB 464](#) (Mullin and Gordon) increases the combined rate of all district taxes imposed in any county from 2% to 3%.

**Administrative Costs:** This bill does not increase the BOE’s administrative costs to the BOE because it authorizes the Los Angeles County to impose a tax that necessitates a county ordinance and voter approval. However, if Los Angeles County voters approve an ordinance imposing the tax, Los Angeles County would be required to contract with the BOE for its ongoing costs to administer the ordinance.

Currently, Los Angeles County has three district taxes each at a 0.5% rate. The BOE’s FY 2014-15 administrative costs for these taxes are estimated to be \$24,712,000: \$8,248,000 (Los Angeles County Transportation Commission), \$8,249,000 (Los Angeles County Transportation Commission), and \$8,215,000 (Los Angeles County Metro Transportation Authority).

**Revenue Impact:** For the 2013-14, the three Los Angeles County district transportation taxes averaged \$725 million in revenue. According to the Department of Finance forecast, taxable sales are expected to increase statewide by approximately 4% in FY 2014-15, and by 6% in FY 2015-16. A new 0.5% district tax in Los Angeles County would raise approximately \$800 million (\$725 million x 110%) in the first full year of implementation.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.